

JS 44C/SDNY
 REV. 12/2005

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the rules of court. The form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

08 CIV 4694

PLAINTIFFS

Elijah Chisolm

DEFENDANTS

**Producers Rice Mill, Inc. and
 Chicago Sweeteners, Inc.**

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Eustace & Marquez

1311 Mamaroneck Avenue

White Plains, N.Y. 10601 (914) 989-6650

ATTORNEYS (IF KNOWN)

Altier & Vogt, LLC

450 Seventh Avenue

New York, New York 10122

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

28 USC 1441 and 1446 - Personal Injury case removed based upon diversity

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes? ☐ Judge Previously Assigned

If yes, was this case Vol ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> 620 FOOD & DRUG	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> MED MALPRACTICE	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> REAPPORTIONMENT
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	<input type="checkbox"/> SEIZURE OF	<input type="checkbox"/> ANTITRUST
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	<input type="checkbox"/> 366 ASBESTOS PERSONAL	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> INSTRUMENT	<input type="checkbox"/> 330 SLANDER	<input type="checkbox"/> INJURY PRODUCT	<input type="checkbox"/> 630 LIQUOR LAWS	<input type="checkbox"/> 450 COMMERCE/CC
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 340 FEDERAL	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 640 RR & TRUCK	<input type="checkbox"/> RATES/ETC
<input type="checkbox"/> OVERPAYMENT &	<input type="checkbox"/> EMPLOYERS'	<input type="checkbox"/> 368 ASBESTOS PERSONAL	<input type="checkbox"/> 650 AIRLINE REGS	<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> ENFORCEMENT OF	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> INJURY PRODUCT	<input type="checkbox"/> 660 OCCUPATIONAL	<input type="checkbox"/> RACKETEER INFLU-
<input type="checkbox"/> JUDGMENT	<input type="checkbox"/> 340 MARINE	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> SAFETY/HEALTH	<input type="checkbox"/> ENCED & CORRUPT
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT	PERSONAL PROPERTY	<input type="checkbox"/> 680 OTHER	<input type="checkbox"/> ORGANIZATION ACT
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 370 OTHER FRAUD	LABOR	<input type="checkbox"/> (RICO)
<input type="checkbox"/> DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE	<input type="checkbox"/> 380 OTHER PERSONAL	<input type="checkbox"/> STANDARDS ACT	<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> (EXCL VETERANS)	<input type="checkbox"/> 360 PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE	<input type="checkbox"/> 720 LABOR/MGMT	<input type="checkbox"/> 810 SELECTIVE SERVICE
<input type="checkbox"/> 153 RECOVERY OF	<input checked="" type="checkbox"/> 360 OTHER PERSONAL	<input type="checkbox"/> PROPERTY DAMAGE	<input type="checkbox"/> RELATIONS	<input type="checkbox"/> 850 SECURITIES/
<input type="checkbox"/> OVERPAYMENT OF	<input type="checkbox"/> INJURY	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> LABOR/MGMT	<input type="checkbox"/> COMMODITIES/
<input type="checkbox"/> VETERANS BENEFITS			<input type="checkbox"/> REPORTING &	<input type="checkbox"/> EXCHANGE
<input type="checkbox"/> 160 STOCKHOLDERS SUITS			<input type="checkbox"/> DISCLOSURE ACT	<input type="checkbox"/> 875 CUSTOMER
<input type="checkbox"/> 190 OTHER CONTRACT			<input type="checkbox"/> 740 RAILWAY LABOR ACT	<input type="checkbox"/> CHALLENGE
<input type="checkbox"/> 195 CONTRACT PRODUCT			<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 12 USC 3410
<input type="checkbox"/> LIABILITY			<input type="checkbox"/> LITIGATION	<input type="checkbox"/> 891 AGRICULTURE ACTS
<input type="checkbox"/> 196 FRANCHISE			<input type="checkbox"/> 791 EMPL RET INC	<input type="checkbox"/> 892 ECONOMIC
			<input type="checkbox"/> SECURITY ACT	<input type="checkbox"/> STABILIZATION ACT
				<input type="checkbox"/> 893 ENVIRONMENTAL
				<input type="checkbox"/> MATTERS
				<input type="checkbox"/> 894 ENERGY
				<input type="checkbox"/> ALLOCATION ACT
				<input type="checkbox"/> 895 FREEDOM OF
				<input type="checkbox"/> INFORMATION ACT
				<input type="checkbox"/> 900 APPEAL OF FEE
				<input type="checkbox"/> DETERMINATION
				<input type="checkbox"/> UNDER EQUAL ACCESS
				<input type="checkbox"/> TO JUSTICE
				<input type="checkbox"/> 950 CONSTITUTIONALITY
				<input type="checkbox"/> OF STATE STATUTES
				<input type="checkbox"/> 890 OTHER STATUTORY
				<input type="checkbox"/> ACTIONS

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
 IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☐ 1 Original Proceeding
 ☒ 2a. Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court
 AND at least one party is a pro se litigant

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

 IF DIVERSITY, INDICATE
 CITIZENSHIP BELOW.
 (28 USC 1332, 1441)

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☒ 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF <input type="checkbox"/> 5 <input type="checkbox"/> 5
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4 <input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6 <input type="checkbox"/> 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

1655 Monroe Avenue
 Bronx, New York 10459
 Bronx County
 Plaintiff: Elijah Chisolm

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

222 North LaSalle Street, Suite 800
 Chicago, IL 60601-1086
 Illinois County
 Defendant: Chicago Sweeteners, Inc.

P.O. Box 1248
 Stuttgart, AR 72160
 Defendant: Producers Rice Mill, Inc.

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE
 (DO NOT check either box if this a PRISONER PETITION.)

5/15/08 SIGNATURE OF ATTORNEY OF RECORD

 ADMITTED TO PRACTICE IN THIS DISTRICT
☐ NO

RECEIPT #


☒ YES (DATE ADMITTED Mo. July Yr. 1989)
 Attorney Bar Code # 3623

Magistrate Judge is to be designated by the Clerk of the Court.

 Magistrate Judge JUDGE DOLINGER is so Designated.

J Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

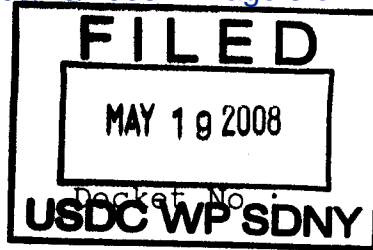
-----x
ELIJAH CHISOLM,

Plaintiff

v.

PRODUCERS RICE MILL, INC. AND CHICAGO
SWEETENERS, INC.,

Defendants
-----x



NOTICE OF REMOVAL OF
CIVIL ACTION PURSUANT

TO 28 U.S.C. §1441
08 CIV. 4694

ECF CASE

Judge Berman

TO: CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN, that the Defendant, Total Sweetners, Inc. d/b/a Chicago Sweetners, Inc. in the civil action in the SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF BRONX, hereby files this Notice of Removal to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. Sections 1441 and 1446. A true copy of the State Court Notice of Removal of Civil Action (without its attachments) is attached hereto as Exhibit "A" and is incorporated herein by reference. True and correct copies of Plaintiff's Summons and Complaint are attached hereto as Exhibit "B".

This is a civil action seeking monetary damages in excess of \$75,000 of which this Court has original jurisdiction under 28 U.S.C. section 1332.

The United States District Court of the Southern District

of New York has original jurisdiction of this matter based on diversity of citizenship of the parties. The basis of this jurisdiction is provided in Section 1332(a) of Title 28 of the United States Code. This section states, in pertinent part, that the district courts should have original jurisdiction of all civil actions with a matter in controversy exceeds the sum of or value of \$75,000 exclusive of interest and cost, and is between citizens of different States.

As seen from the pleadings in this matter, plaintiffs are citizens of the State of New York and defendant Total Sweeteners, Inc., d/b/a Chicago Sweeteners, Inc. is a citizen of the State of Illinois. Also named by Plaintiff is Producers Rice Mill, Inc., a citizen of Arkansas. The Summons and Complaint further alleges that the matter in controversy is well in excess of \$75,000.

Concurrently with the filing of this Notice of Removal, defendant is giving notice to all known parties of this removal and the fact that this case is to be docketed in this Court and that this Court will grant relief to defendant as is proper under the circumstances.

Pursuant to 28 U.S.C. Section 1446(a) all process, pleadings and orders that have been served upon defendant to date in this matter are annexed to this Notice of Removal as Exhibit "B".

Pursuant to 28 U.S.C. 1446(d) a true and complete copy of this Notice of Removal will be submitted for filing with the SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF BRONX.

DATED: May 19, 2008
White Plains, New York

Yours, etc.,
Eustace & Marquez
Attorneys for Defendant
Total Sweetners, Inc. d/b/a
Chicago Sweeteners, Inc.
Office and Post Office Address
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
(914) 989-6650

By:



John R. Marquez - 3623

EXHIBIT "A"

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
ELIJAH CHISOLM,

Index No.: 301572/08

Plaintiff

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

v.

PRODUCERS RICE MILL, INC. AND CHICAGO
SWEETENERS, INC.,

Defendants
-----X

**TO: THE CLERK OF THE SUPREME COURT FOR THE STATE OF NEW YORK
AND TO ALL PARTIES TO THE ACTION HEREIN:**

PLEASE TAKE NOTICE THAT Defendant, Total Sweetners, Inc.
d/b/a Chicago Sweetners, Inc. have filed a Notice of Removal of
this action in the United States District Court for the Southern
District of New York, on May 14, 2008, pursuant to the
provisions of 28 U.S.C. §§ 1441 and 1446. A Copy of the said
Notice of Removal is annexed hereto as Exhibit "A". This notice
is filed pursuant to 28 U.S.C. §1446(d).

DATED: May 19, 2008
White Plains, New York

Yours, etc.,
Eustace & Marquez
Attorneys for Defendant
**Total Sweetners, Inc. d/b/a
Chicago Sweeteners, Inc.**
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
(914) 989-6650

By: 

John R. Marquez

EXHIBIT "B"

05/06/2008 11:19

841-299-1669

CHICAGO SWEETENERS

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.

Date Purchased:

Plaintiff designates

ELIJAH CHISOLM,

Plaintiff,

-against-

PRODUCERS RICE MILL, INC. and
CHICAGO SWEETENERS, INC.,

Defendants.

To the above named Defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
February 19, 2008

Defendants' Addresses:

PRODUCERS RICE MILL, INC.
P.O. Box 1248
Stuttgart, AR 72160

CHICAGO SWEETENERS, INC.
c/o Thomas A. Korman
Gould & Ratner LLP
222 North LaSalle Street, Suite 800
Chicago, IL 60601-1086

ALTIER & VOGT, LLC

By:

PHILIP R. VOGT

Attorneys for Plaintiff
Office and Post Office Address
450 Seventh Avenue, 36th fl
New York, New York 10123
(212) 564-9090

CLERK
COUNTY CLERK
BRONX COUNTY

2008 FEB 19 11 35 AM

NOTICE OF ENTRY OR SETTLEMENT

Sir(s):

PLEASE TAKE NOTICE that a

of which the within is a
(true/certified) copy

NOTICE OF ENTRY

was duly entered within named

Court on 200

NOTICE OF SETTLEMENT

will be presented for settlement
to the Hon.

one of the Judges of the within
named Court at the Courthouse at

on 200
at o'clock A.M.

Dated: 200

Yours, etc.,

ALTER & VOGT, LLC
Attorneys for Plaintiff
Office & P.O. Address:
450 Seventh Avenue
New York, New York 10123
(212) 564-9090

To:

Attorney(s) for

Index No. 301572-08

SUPREME COURT: BRONX COUNTY

ELIJAH CHISOLM,

Plaintiff,

-against-

PRODUCERS RICE MILL, INC. and
CHICAGO SWEETENERS, INC.,

Defendants.

SWORN AND VERIFIED COMPLAINT

ALTER & VOGT, LLC

Attorneys for Plaintiff
Office & P.O. Address:

450 Seventh Avenue (36th floor)
New York, New York 10123
(212) 564-9090

To:

Attorney(s) for

ADMISSION OF SERVICE

The undersigned acknowledges
receipt of a copy of the
within

on 200

at o'clock N.

Attorney(s) for

By:.....

ATTORNEY'S CERTIFICATION

STATE OF NEW YORK, COUNTY OF

The undersigned, an attorney
admitted to practice in the State
of New York, does hereby certify,
pursuant to Section 2105 CPLR,
that I have compared the within

with the original and have found
it to be a true and complete copy
thereof.

Dated: 200

05/06/2008 11:19 841-299-1669

CHICAGO SWEETENERS

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

ELIJAH CHISOLM,

INDEX #: 301572-08

Plaintiff,

-against-

PLAINTIFF DEMANDS
TRIAL BY JURY

PRODUCERS RICE MILL, INC. and
CHICAGO SWEETENERS, INC.,

Defendants.

Plaintiff, complaining of defendants, by his attorneys,
ALTIER & VOGT, LLC, respectfully shows to this Court and alleges,
upon information and belief:

FIRST: At all times hereinafter mentioned the plaintiff,
ELIJAH CHISOLM was and still is a resident of the County of
Bronx, City and State of New York.

SECOND: At all times herein mentioned, the defendant,
PRODUCERS RICE MILL, INC. was and still is a foreign corporation
authorized to do business in the State of New York.

THIRD: At all times herein mentioned, the defendant,
PRODUCERS RICE MILL, INC. was and still is a foreign corporation
doing business in the State of New York.

FOURTH: At all times herein mentioned, the defendant,
CHICAGO SWEETENERS, INC. was and still is a foreign corporation
authorized to do business in the State of New York.

FIFTH: At all times herein mentioned, the defendant,

FILED 5-26-08
Supreme Court, County of ALBANY
with Court of

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CHICAGO SWEETENERS

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CHICAGO SWEETENERS, INC. was and still is a corporation doing business in the State of New York.

SIXTH: That on and before March 2, 2007 defendant PRODUCERS RICE MILL, INC. owned, operated, maintained and/or controlled a certain railroad boxcar which was in use in interstate commerce for shipping food products.

SEVENTH: That on and before March 2, 2007 defendant PRODUCERS RICE MILL, INC., by its agents, servants and/or employees, entered into a contract to sell rice to GOYA FOODS, INC.

EIGHTH: That on and before March 2, 2007 defendant PRODUCERS RICE MILL, INC., by its agents, servants and/or employees, did sell rice to GOYA FOODS, INC. for delivery by rail on or about March 2, 2007 to New Haven Distributors, Bronx, New York.

NINTH: That prior to March 2, 2007, defendant PRODUCERS RICE MILL, INC., by its agents, servants and/or employees, loaded said rice onto a railroad boxcar for delivery to New Haven Distributors, Bronx, New York.

TENTH: That on and about March 2, 2007 defendant PRODUCERS RICE MILL, INC., by its agents, servants, and/or employees, did deliver, or caused to be delivered, by rail said rice to New Haven Distributors, Bronx, New York.

ELEVENTH: That defendant PRODUCERS RICE MILL, INC. did own the railroad boxcar that delivered said rice to New Haven Distributors, Bronx, New York on or about March 2, 2007.

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CHICAGO SWEETENERS

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TWELFTH: That on and before March 2, 2007 defendant CHICAGO SWEETENERS, INC. owned, operated, maintained and/or controlled a certain railroad boxcar which was in use in interstate commerce for shipping food products.

THIRTEENTH: That on and before March 2, 2007 defendant CHICAGO SWEETENERS, INC., by its agents, servants and/or employees, entered into a contract to sell powdered drink mix to 4C FOODS CORP.

FOURTEENTH: That on and before March 2, 2007 defendant CHICAGO SWEETENERS, INC., by its agents, servants and/or employees, did sell powdered drink mix to 4C FOODS CORP. for delivery by rail on or about March 2, 2007 to New Haven Distributors, Bronx, New York.

FIFTEENTH: That prior to March 2, 2007, defendant CHICAGO SWEETENERS, INC., by its agents, servants and/or employees, loaded said powdered drink mix onto a railroad boxcar for delivery to New Haven Distributors, Bronx, New York.

SIXTEENTH: That on and about March 2, 2007 defendant CHICAGO SWEETENERS, INC., by its agents, servants and/or employees, did deliver, or caused to be delivered, by rail said powdered drink mix to New Haven Distributors, Bronx, New York.

SEVENTEENTH: That defendant CHICAGO SWEETENERS, INC. did own the railroad boxcar that delivered said rice to New Haven Distributors, Bronx, New York on or about March 2, 2007.

EIGHTEENTH: That on March 2, 2007 the aforesaid railroad boxcar was at 999 East 149th Street, Bronx, New York.

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CHICAGO SWEETENERS

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NINETEENTH: That on March 2, 2007 at 999 East 149th Street, Bronx, New York, plaintiff ELIJAH CHISOLM was injured while attempting to close a door on said railroad boxcar.

TWENTIETH: That plaintiff's injury was cause solely and wholly by reason of the dangerous and defective condition of the defendants' railroad boxcar and/or its negligence in the packing/loading of said boxcar.

TWENTY-FIRST: The plaintiff's injury was cause solely and wholly by reason of the carelessness, recklessness and negligence of defendants, their agents, servants and employees in the following respects: in that employees of defendants were careless and negligent in the performance of their duties; in that defendants' employees were negligent in the operation and work of defendants' business; in that defendants maintained said box car in an improper, defective and dangerous condition; in causing, allowing, suffering and/or permitting the roof of the boxcar to leak thereby causing rainwater to collect inside and on the floor of the boxcar and to be slippery; in causing, allowing, suffering and/or permitting the shipment/load/freight in the boxcar to be improperly packed/stored/secured/contained causing it to shift and break open thereby allowing debris to fall and spill onto the floor of the boxcar; in causing, allowing, suffering and/or permitting the door mechanism of said boxcar to be and remain in disrepair, and to be and remain in a dangerous and defective condition; in failing to properly repair inspect and maintain the door and door track and door movement mechanism of said boxcar;

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CHICAGO SWEETENERS

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in owning, operating, maintaining and/or controlling said boxcar with a dangerous and defective door and door track and door movement mechanism that was unable to be closed in a safe and proper manner; in placing said dangerous and defective boxcar into use; in that employees of defendants failed to take proper precautions to prevent the injuries sustained by plaintiff; in that defendants violated applicable governmental rules and regulations including rules and regulations of the Occupational Safety and Health Administration and Federal Railroad Administration; in that defendants failed to promulgate and enforce proper and safe rules for the safe conduct of the work and operation of its business; in failing to guard against those risks and/or dangers which defendants knew or by the exercise of due care should have known; in failing to exercise reasonable care to provide a safe and efficient railroad boxcar; in failing to timely inspect and maintain said railroad boxcar; in violating its own safety rules and regulations and accustomed practice in the industry.

TWENTY-SECOND: Said occurrence and the injuries resulting therefrom were due wholly and solely to the negligence of defendants, their agents, servants and employees, and the defects in defendant's property and equipment as aforesaid, without any fault or negligence on the part of plaintiff contributing thereto.

TWENTY-THIRD: By reason of the premises, plaintiff was severely and seriously injured; suffered and will continue in the

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CHICAGO SWEETENERS

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future to suffer pain and injury; has become sick, sore, lame and disabled, and will be permanently injured; has lost and will lose in the future sums of money which he otherwise would have earned; has been compelled to spend sums of money and incur liability for medical treatment and medicine, and will incur such expenses in the future.

TWENTY-FOURTH: That this action is exempt from Article 16 of the CPLR.

TWENTY-FIFTH: By reason of the premises, plaintiff has been damaged in the sum of which exceeds the jurisdictional limitations of all inferior courts.

WHEREFORE, plaintiff demands judgment against the defendants jointly and/or severally in the sum which exceeds the jurisdictional limitations of all inferior courts, together with the costs and disbursements of this action.

Dated: New York, N.Y.
February 19, 2007

Yours, etc.

ALTIER & VOGT, LLC

BY: 

PHILIP P. VOGT

Attorneys for Plaintiff
450 Seventh Avenue
New York, New York 10123
212-564-9090

05/26/2008 11:19

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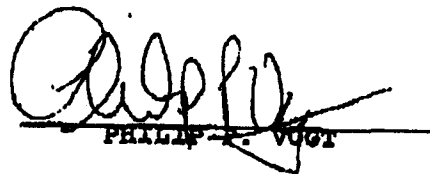
CHICAGO SWEETENERS

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I, the undersigned, an attorney admitted to practice law in the courts of New York State, state that I am a member of the firm of ALTIER & VOGT, LLC, attorneys of record for Plaintiff in the within action; I have read the foregoing Complaint and it is true to my own knowledge, except as to matters therein stated on information and belief and as to those matters I believe it to be true; that the ground of my belief as to all matters not stated upon my knowledge are correspondence and other writings furnished to me by plaintiff and interviews with plaintiff; and that the reason why the verification is not made by plaintiff is that plaintiff does not reside in the County of New York where affirmant maintains his office.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated: New York, N.Y.
February 19, 2008



PHILIP R. VOGT

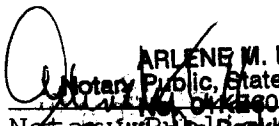
New York, at the address designated by him or her upon the last paper served by him or her in the action.

DATED: May 20, 2008
White Plains, New York



Linda McKeiver

Sworn and subscribed
before me on May 20, 2008


ARLENE M. KELLY
Notary Public, State of New York
Notary No. 01429049180
Notarized in Rockland County
Commission Expires 06/10/10

Docket No.:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIJAH CHISOLM,

Plaintiff

-against-

PRODUCERS RICE MILL, INC. AND CHICAGO SWEETENERS,
INC.,

Defendants

NOTICE OF REMOVAL

EUSTACE & MARQUEZ
Attorneys for Defendant
Total Sweetners, Inc. d/b/a Chicago Sweeteners, Inc.
Office and Post Office Address
1311 Mamaroneck Avenue
3rd Floor
White Plains, New York 10605
(914) 989-6650